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October 23, 2020

Texas House of Representatives, Criminal Jurisprudence Committee
State Capitol, Ext E2.112

RE: State Prosecuting Attorney's Response to Interim Charge 4

Dear Chair Collier and Committee Members:

Although the State Prosecuting Attorney (SPA) has exclusive jurisdiction before the Court of Criminal Appeals (CCA), *see* TEX. GOV'T CODE §§ 42.001, 42.005, the SPA seldom prosecutes death penalty cases on direct appeal and in post-conviction habeas proceedings. Local jurisdictions and the Attorney General's Office represent the State in those matters. Because of the SPA's small size, its resources are best dedicated to advocating for the CCA to grant review in non-capital cases on petition for discretionary review (PDR). PDR issues typically concern matters of great importance to Texas' jurisprudence. Death penalty cases, by contrast, are fact-specific and do not have a far-reaching impact on the development of the State's caselaw. When the SPA does get involved, the contribution is limited to a narrow legal issue that has the potential to broadly effect death penalty cases or will constitute a significant shift in the law that, in the future, will extend to numerous death penalty cases. The SPA, therefore, cannot offer an informed general opinion on capital sentencing or the "implementation [of the] applicable law in direct appeal and writ proceedings" or on "compliance with constitutional protections and conflict of interest rules." The SPA can direct the Chair and committee members to knowledgeable resources who can contribute valuable information on these topics.

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